

LABOUR DEPARTMENT

The 18th June, 1985

No. 9/5/84-Lab/5093.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act. No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of:

(i) G. M. Worsted Spinning Mills (P) Ltd., Link Road, Faridabad, (ii) G. M. Worsted Spinning Mills, Link Road, Faridabad.

IN THE COURT OF SHRI R. N. SINGAL,
PRESIDING OFFICER, LABOUR COURT,
FARIDABAD

Reference No. 229 of 1982.

between

SHRI TILAK RAJ, WORKMAN AND THE
RESPONDENT MANAGEMENT OF M/S.
G. M. WORSTED SPINNING MILLS (P) LTD.,
LINK ROAD, FARIDABAD.

(ii) M/S. G. M. WORSTED SPINNING MILLS.
LINK ROAD, FARIDABAD.

Present:

Shri Darshan Singh for the workman.

Shri G. S. Chaudhary for the respondent management.

AWARD

This industrial dispute between the workman Shri Tilak Raj, and the respondent management of M/s. G. M. Worsted Spinning Mills (P) Ltd., Link Road, Faridabad. (ii) M/s. G. M. Worsted Spinning Mills, Link Road, Faridabad. has been referred to this court by the Hon'ble Governor of Haryana,—vide his order No. ID/FD/140/82/40728, dated 27th August, 1982 under Section 10(i) (c) of the Industrial Disputes Act, 1947 for adjudication. The terms of the reference are:—

Whether the termination of services of Shri Tilak Raj was justified and in order? If not, what relief is he entitled?

On 2nd June, 1981 the workman gave his demand notice that his services were terminated on 20th March, 1981 illegally. He was working as Electrician at the rate of Rs. 650

per mensem, in both the mills of the respondent. In the claim statement in the court the claimant has taken the same pleas. The workman has prayed for reinstatement with continuity of service and with full back wages.

This claim was contested by the management. According to the amended written statement the claimant himself left the work of the company. He submitted resignations voluntarily to both the respondent managements, and the same were accepted by the respondent management. Thereafter the workman received his full and final payment in the presence of the clerk of the Labour Inspector and executed a valid receipt in favour of the respondent managements. Hence there no industrial dispute exists to be adjudicated upon. The pleas further taken that he is gainfully employed.

These averments have been denied by the workman in his rejoinder dated 26th April, 1984. It is contended that these documents were not brought before the Conciliation Officer.

The claim was contested on the following issues:—

1. Whether the claimant was a part-time employee of the respondents?

2. As per reference?

The then Presiding Officer in his judgement dated 2nd February, 1983 has held that the claimant was full time employee of the respondent No. 2. The following additional issues were framed by me on 26th July, 1984:—

1. Whether the workman has voluntarily resigned and received his full and final payment?

2. Whether the workman is gainfully employed?

3. As per reference?

I have heard the representatives of both the parties and gone through the entire evidence and record produced on the file. My findings on the above issues seriatim is as under:—

Issue No. 1:

The management has relied upon the resignation letters of the workman which are Ex. M-1 and M-3. Ex. M-1 is a resignation addressed to the respondent No. 2 and resignation Ex. M-3 is addressed to the respondent No. 1. These resignation letters were submitted on 16th April, 1981. These were accepted on the same date and the workman collected his full and final payments from both the respondent

managements,—vide vouchers Ex. M-4 and M-2. The workman has denied his signatures on all these four documents. It is contended that no reliance was placed on these documents before the Conciliation Officer. Both the parties have produced handwriting experts in their favour. When both the parties produced experts and experts supported their parties then the court is the best expert and the court can find out with his naked eyes whether the signatures are genuine or not. I have gone through the admitted signature on the claim statement and also other documents and also specimen signatures produced in the court. I am of the opinion that the signatures on the disputed documents Ex. M-1 to M-4 are of the workman. MW-2 Shri Randhir Singh, Clerk of the Labour Inspector has stated that the workman has received the payment on these vouchers in his presence. Though he has stated that these vouchers were already signed. This clearly shows that the payment was made to the claimant in the presence of this witness. It is admitted that the services of the workman were terminated on 20th March, 1981. The workman gave his demand notice in the month of June, 1981. He kept silent for about three months in submitting his demand notice. This also clearly shows that he thought of contesting the claim of resignation after careful thought and consideration. There is no evidence that the signature of the claimant were taken by fraud. The accountant of the management Shri S. P. Jain has stated that the payments were made to the workman before the Clerk of the Labour Inspector. Nothing has come in his cross examination to disbelieve him. I therefore find that the claimant has voluntarily resigned his services and have received his full and final payment. This issue is therefore decided against the workman.

Issue No. 2:

The workman has admitted in his statement that he earns Rs. 50 to 100 by doing electric job. There is no other evidence that he is employed elsewhere. It, therefore, clearly shows that the workman is partly gainfully employed.

Issue No. 3:

As per my findings the workman has voluntarily resigned his services and received his full and final payments in settlement of his claims. His services were never terminated by the management. The reference is therefore

bad in law. The claimant is not entitled to any relief. The award is given accordingly.

Dated the 22nd May, 1985.

R. N. SINGAL,
Presiding Officer,
Labour Court, Faridabad.

Endorsement No. 1725, dated 1st June, 1985

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana Labour and Employment Department, Chandigarh as required under Section 15 of the I. D. Act.

R. N. SINGAL,
Presiding Officer,
Labour Court, Faridabad.

No. 9/5/84-6Lab./509.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act, No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of M/s. Koma Engineers, Jaipur Road, Gurgaon.

IN THE COURT OF SHRI R. N. SINGAL,
PRESIDING OFFICER, LABOUR COURT.

FARIDABAD.

Reference No. 90 of 1983

between

SHRI UDAI BIR SINGH, WORKMAN AND
THE RESPONDENT MANAGEMENT OF
M/S. KOMA ENGINEERS, JAIPUR ROAD,
GURGAON

Present:

Shri Shardha Nand for the workman.

Shri M. P. Gupta for the respondent management.

AWARD

This industrial dispute between the workman Shri Uday Bir Singh, and the respondent management of M/s. Koma Engineers, Jaipur Road, Gurgaon, has been referred to this Court by the Hon'ble Governor of Haryana,—vide his order No. ID/GGN/143/2/8795-8800, dated 25th February, 1985 under section 10(1) (c) of the Industrial Disputes Act, 1947 for adjudication. The terms of the reference are :—

Whether the termination of services of Shri Uday Bir Singh was justified and in order? If not, to what relief is he entitled?

According to the claim statement the workman was appointed on 1st August, 1979. His services were terminated on 10th November, 1982 without any notice or chargesheet and it is a case of victimization. The claimant has claimed reinstatement with continuity of service and with full back wages.

It is admitted that the claimant was appointed on 1st August, 1979. It is contended that he was not terminated from service, but he was retrenched from service with effect from 10th November, 1982 prior to this retrenchment seniority list of the workman was prepared as per provisions of law and the workman was offered compensation. The workman refused to receive the compensation. Hence the same was remitted to the workman through money order, which has now been received by the workman. The workman was working as S. B. Turner and was junior most turner. After retrenchment no other turner has been employed. Hence the retrenchment of the claimant is quite legal and justified.

In the rejoinder the workman has contended that he was active member of the union. He was also president of the union. He has been victimised. He was senior most person. Hence termination order is quite illegal. It is further stated that the amount has been received by the workman by money order, but it was received under protest.

This reference was contested on the following issue:—

1. AS PER REFERENCE?

I have heard the representatives of both the parties and gone through the evidence on the file. My findings on the issue is as under:—
ISSUE NO. 1:—

It is contended that Seniority list Ex. M-2 was prepared and its copy was sent to the Labour authorities. It is also admitted by the witness of the workman, namely, WW-2 Shri Bram Dutt that notices were pasted on the notice board and the name of the witness was written in that notice. No protest was lodged against this seniority. In this seniority list the name of the claimant has been shown at Sr. No. 2 in the department of Machine shop turners. It is contended that junior turner were employed after his termination. Four persons S/Shri Sube Singh, Brahm Dev, Vijay Kumar and Sohan Singh were working in the factory but their names have not been entered in the

attendance register. It has been admitted by Shri Ram Karan, partner of the firm that before honing turner work is got done. He has not stated that who has to do the work. It is therefore, clear that the services of the claimant were terminated as he was member of the union and he was also president of the union, as alleged by him and his turner work is got done from other person as their attendance is not being marked in the attendance register. There is no evidence that the machine shop has been closed. It is contended that retrenchment letter Ex. M-4 was not sent by Shri Gupta who appointed the claimant which has been signed by Shri K. K. Modi, Assistant Manager, and there is no evidence that Shri K. K. Modi has the power to terminate the workman. This contention of the workman has force. There is no letter of authority that Shri K. K. Modi has the authority to terminate the services of the claimant. Though Ex. M-1 which is the seniority list shows that Shri K. K. Modi was the Assistant Manager. Shri K. K. Modi has no power to retrench the claimant as he has no authority to do so. It has been contended by the representative of the management that the claimant was the junior most employee in the machine shop and he was retrenched because the respondent had no work in the machine shop. This cannot be accepted to be correct. It has been admitted by the partner of the firm that honing work is done after turning work. So it cannot be said turning department is closed. No explanation has been given why extra workmen were employed by the respondent and their names were not entered in the attendance register of the factory. It is therefore clear case of victimization of the claimant. I, therefore, find that his services were illegally terminated. I, therefore, give the award that he is entitled to reinstatement with continuity of service and full back wages.

Dated, the 16th May, 1985.

R. N. SINGAL,
Presiding Officer,

Labour Court, Faridabad.

Endorsement No. 1726, dated 1st June, 1985.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh as required under Section 15 of the Industrial Disputes Act.

R. N. SINGAL
President

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